

REMARKS

The Office Action dated October 30, 2007 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1-18 are currently pending in the present application and are respectfully submitted for consideration.

The Office Action rejected claims 1-18 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0118016 ("Kalkunte") in view of U.S. Patent No. 6,490,280 ("Leung"). The rejection is respectfully traversed because Kalkunte does not qualify as valid prior art in support of the rejection of claims 1-18 under 35 U.S.C. § 103(a). Specifically, Kalkunte cannot be used to preclude patentability under the 35 U.S.C. § 103(c) prior art exception.

35 U.S.C. § 103(c)(1) states, in part,

"Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." (see § 2146 of the MPEP)

Kalkunte qualifies as prior art under 35 U.S.C. § 102(e) because the publication date of Kalkunte (June 26, 2003) is not more than one year prior to the priority dates of the present application which claims priority to provisional patent application serial no. 60/482,759 filed on June 27, 2003 and serial no. 60/527,822 filed December 9, 2003.

Both Kalkunte and the present application were subject to an obligation of assignment to the same entity, namely Broadcom Corporation, at the time the claimed invention was made. Evidence of Kalkunte's obligation of assignment to Broadcom Corp. may be found at reel/frame 011916/0576 which was recorded on June 19, 2001. The present application's obligation of assignment to Broadcom Corp. may be found at reel/frame 015100/0626 which was recorded on March 16, 2004. As stated above, the subject matter and the claimed invention were, at the time the claimed invention was made, subject to an obligation of assignment to the same person, or in this case the same entity (Broadcom Corp.).

Therefore, according to 35 U.S.C. § 103(c), Kalkunte is not valid prior art in support of a rejection of the claims in the present application under 35 U.S.C. § 103(a). Applicants respectfully assert that the Office Action's rejection of claims 1-18 cannot stand without Kalkunte, and thus, Kalkunte will not be further discussed in this Response and Applicants respectfully request that the Office Action's rejection be withdrawn.

As for Leung, the disclosure of Leung is directed to a multiport data communications system configured for switching packets between ports. A monitoring circuit monitors received data packets prior to storing them in memory, and determines whether to insert/strip/modify the VLAN tag of the packet. The VLAN tag may be used to identify frame information as belonging to a particular group of stations. The VLAN tags of the packets may be altered for queuing and/or transmitting of the packets.

Leung does not teach the subject matter recited in the claims. For example, the

VLAN tag alteration procedure of Leung is not comparable to the VLAN identifier modification procedure of claim 1, which recites, in part, “modifying a VLAN identifier of the outgoing datagram if necessary based on the copy count value; and forwarding the outgoing datagram from the egress port.”

Leung does not disclose the subject matter recited in independent claim 1, and similarly recited in independent claims 8 and 15. By virtue of dependency, claims 2-7, 9-14 and 16-18 have also overcome the teachings of Leung. Withdrawal of the rejections of claims 1-18 is kindly requested.

For at least the reasons discussed above, Applicants respectfully submit that the cited prior art references fail to disclose or suggest all of the elements of the claimed invention. These distinctions are more than sufficient to render the claimed invention unanticipated and unobvious. It is therefore respectfully requested that all of claims 1-18 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicant’s undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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